

PUBLIC INTEREST

— LEGAL FOUNDATION —

VIA EMAIL

January 18, 2018

Office of Vince Ryan
County Attorney
1019 Congress
Floor 15
Houston, TX 77002

RE: NVRA Violation Notice

Dear Ms. Lee:

We have received a copy of your January 11, 2018 letter and memorandum to the Attorney General of Texas denying our December 1, 2017 request for inspection of voter list-maintenance records maintained by Harris County election officials.

In our initial request for inspection, and again in our letter of clarification dated December 18, 2017, we explained that our request is made pursuant to the National Voter Registration Act of 1993 (NVRA). Section 20507(i) of the NVRA requires your office to make available for inspection and photocopying “all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.”

Despite that unequivocal clarification regarding the basis for our request, your letter continues to treat our request as if it were made pursuant to the Texas Public Information Act, rather than the NVRA.

Our request is not a request pursuant to the Texas Public Information Act.

In fact, your letter omits entirely any reference to the NVRA. Instead, your letter states that “the requested information is not subject to disclosure” under the Texas Public Information Act (the “Act”), and seeks permission to deny us access to the requested records on the basis of exemptions found in the Act and various Texas laws.

The state-law exemptions cited in your letter are not applicable to our request. The NVRA “identifies the information which Congress specifically wished to keep confidential.” *Project Vote/Voting for Am., Inc. v. Long*, 752 F. Supp. 2d 697, 710 (E.D. Va. 2010), *affirmed Project Vote / Voting for Am., Inc. v. Long*, 682 F.3d 331 (4th Cir. 2012) (holding that copies of voter registration applications must be made available for inspection under NVRA). Such confidential information is limited to “records relate[d] to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.” 52 U.S.C.S. § 20507(i)(1). The NVRA contains no other exemptions. *Project Vote / Voting for Am., Inc.*, 682

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F.3d at 336 (The NVRA’s “use of the word ‘all’ [as a modifier] suggests an expansive meaning because ‘all’ is a term of great breadth.”) (citations omitted).

Harris County election officials “ha[ve] certain obligations under the NVRA as the designated voter registrar and state official.” *Am. Civil Rights Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 793 (W.D. Tex. 2015). If a county election official “has failed to meet her obligations,” an aggrieved party “can bring a civil suit against her.” *Id.*

Accordingly, this letter serves as statutory notice to Harris County, required by 52 U.S.C. § 20510(b) prior to the commencement of any lawsuit in order to enforce provisions of Section 8 of the NVRA, 52 U.S.C. § 20507(i), for failure to grant inspection of the requested records.

The Harris County Voter Registrar is hereby notified that it now faces federal litigation should it continue to deny access to requested records in its possession.

It is our hope that the County will work quickly to provide for inspection the all of the records previously requested. If not, according to federal law, a lawsuit under the NVRA may be filed within 90 days after the failure to permit inspection or failure to provide the documents. 52 U.S.C. § 20510(b). For any lawsuits initiated by a private party, an award of attorney’s fees, expenses, and costs incurred are available under 52 U.S.C. § 20510(c).

Sincerely,



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